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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/991,573	11/20/2001	Paul H. Burmeister	1001.1145105	4239

28075 7590 10/16/2003

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EXAMINER

SZMAL, BRIAN SCOTT

ART UNIT	PAPER NUMBER
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3736

DATE MAILED: 10/16/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/991,573

Applicant(s)

BURMEISTER ET AL. *cr*

Examiner

Brian Szmaj

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 28,29 and 31-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 35,40 and 41 is/are allowed.
- 6) ☒ Claim(s) 28,29,31 and 36-39 is/are rejected.
- 7) ☒ Claim(s) 32-34 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☒ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 28, 29, 31 and 36-39 are rejected under 35 U.S.C. 102(b) as being anticipated by Goto et al (JP 2-180277).

Goto et al disclose a guide wire with a rigid inner core and a synthetic resin cover film and further disclose an elongated core having a proximal region and a distal region, the distal region of the core having a proximal portion and a distal portion; a radiopaque coil disposed about the distal portion of the distal region of the core; a plastic jacket disposed about the distal region of the core and the radiopaque coil, the jacket is in intimate contact with the proximal portion of the distal region of the core along a length thereof; the jacket is in intimate contact with the radiopaque coil; the jacket has a smooth outer surface; the radiopaque coil is encapsulated within the jacket; the inner surface of the jacket and the outer surface of the core are in direct contact over a length of the proximal portion of the distal region of the core; the plastic jacket has a substantially constant outer diameter over the radiopaque coil and the proximal portion of the core; and the core tapers along the distal region of the core. See Abstract and Figures 1-3.

Allowable Subject Matter

3. Claims 32-34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

4. The following is a statement of reasons for the indication of allowable subject matter: Claims 35, 40 and 41 are allowable since no prior art could be found teaching or suggesting a core wire having a distal portion of the distal region having a relatively flat cross sectional shape and the proximal portion of the distal region of the core having a relatively round cross sectional shape; a jacket with a first section over a radiopaque coil and a second section adjacent the first section and overlaying and in contact with the second portion of the core wire.

Response to Arguments

5. Applicant's arguments, see Paper No. 7, filed August 15, 2003, with respect to the rejection(s) of claim(s) 28, 29 and 31 under De Toledo have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Goto et al (JP 2-180277).

6. Applicant's arguments, see Paper No. 7, filed August 15, 2003, with respect to Claim 35 have been fully considered and are persuasive. The rejection of Claim 35 has been withdrawn.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Szmaj whose telephone number is (703) 308-

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3737. The examiner can normally be reached on Monday-Friday, with second Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on (703) 308-2701. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

BS



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